IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE T.CH.SURYA RAO

WRIT PETITION NO : 23422 of 2002

Between:

1 Mr. Bharat D Vora, S/o Shri.Dhirubai Vora,

R/o Gharonda Maitri Apartments, III Floor,

Street No.9, Himayathnagar, Hyderabad.

2 Mr.Jitendra D Vora, S/o Sri.Dhirubai Vora,

R/o Gharonda Maitri Apartments, III Floor,

Street No.9, Himayathnagar, Hyderabad.

..... PETITIONERS

AND

1. The Mandal Revenue Officer, Nampally Mandal,

Govvernment of A.P., Revenue Dept., Hyderabad.

2 The District Collector, Hyderabad District, Hyderabad.

3 The Sales Tax Officer, Nanded.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, direction or order especially in the nature of writ of certiorari and quash the notice bearing Lr.No.B/5496/2002 dt.18.11.2002 passed by the 1st respondent as illegal, arbitrary and without jurisdiction.

For the Petitioners: MR. S.RAVI, Advocate.

For the Respondents: GP FOR REVENUE

The Court made the following Order: (per Sri B. Sudershan Reddy, J)

The petitioners invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India challenging the notice of attachment dated 18-11-2002 purported to have been issued under the provisions of the Revenue Recovery Act, 1864.

The petitioners are the owners of flat bearing Nos. 308 and 309, Pancharatna Apartments, 4-1-10, Tilak Road, Hyderabad. It is stated that they have permitted their sister-in-law Smt. Rita Vora and her family to occupy the premises as a licensee. They are aggrieved by the impugned notice of attachment purported to have been issued under the provisions of Section 27 of the Revenue Recovery Act, 1864 dated 18-11-2002 addressed by the 1st respondent to M/s. M.S. Kumar D.Vora styling him as Director of M/s. Mahavir Buty Rubber Industries Private Limited (hereinafter referred as 'the company') having its office at 15-9-455/456, Afzal Gunj, Hyderabad.

The case of the petitioners is that Smt. Rita Vora was only occupier of the said premises under the licence. The petitioners claim that they have not given any guarantee on behalf of the company and they do not have any business connection or interest in relation to the business of the company.

The proceedings appears to have been initiated for realization of the sales tax arrears payable by the company. The contention of the petitioners is that they were

not even the directors of the company at any point of time and has no business connection with the company and therefore, their property cannot be attached and sold in realization of the sales tax arrears, if any, liable to be paid by the company. It is also contended that there is no provision either under the Bombay Sales Tax Act or under the Companies Act which obligates the director of a company to discharge the liability in respect of sales tax payable by the company and in such view of the matter, no proceedings can be initiated against the petitioners.

Suffice it to notice that the petitioners have already filed their objections dated 20-11-2002 before the 1st respondent herein inter alia contending that the property in question cannot be attached and they are not liable to pay any amounts whatsoever towards the arrears of sales tax, if any, payable by the company. Admittedly, the objections have not so far been disposed of by the 1st respondent. In the circumstances, it would be appropriate to direct the 1st respondent herein to consider the objections raised by the petitioners and pass appropriate speaking orders within a period of four weeks from today. Leave is granted to the petitioners to raise further objections by submitting a detailed objection petition before the 1st respondent which shall be duly be taken into consideration. It is needless to direct that no further steps in this regard shall be taken by the respondents herein until the disposal of the objections preferred by the petitioners which are pending before the 1st respondent. There shall be an order accordingly.

The Writ Petition is accordingly disposed of.

(B. Sudershan Reddy, J)

02-12-2004

(T.Ch. Surya Rao, J)

ks

Note: Furnish copy of the order by tomorrow.

B/O

Ks

To

1. The Mandal Revenue Officer, Nampally Mandal,

the Government of A.P., Revenue Dept., Hyderabad.

2 The District Collector, Hyderabad District, Hyderabad.

3 The Sales Tax Officer, Nanded.

4. Two CCs to the Government Pleader for Revenue, High

Court of Andhra Pradesh, Hyderabad (OUT).

5 Two CD copies.